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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/022,320	09/10/2013	W. Caleb Barlow	CAM920120074US2_8150-0449	9058

52021 7590 02/02/2017  
Cuenot, Forsythe & Kim, LLC  
20283 State Road 7  
Ste. 300  
Boca Raton, FL 33498

EXAMINER
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HOANG, HAU HAI

ART UNIT	PAPER NUMBER
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2167

NOTIFICATION DATE	DELIVERY MODE
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02/02/2017

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* W. CALEB BARLOW, JAMES E. CHRISTENSEN,  
DAVID S. MARSHAK, ANDREW L. SCHIRMER, and  
TRACEE L. WOLF

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Appeal 2016-002461  
Application 14/022,320<sup>1</sup>  
Technology Center 2100

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Before ST. JOHN COURTENAY III, JOHN A. EVANS, and  
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

EVANS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>2</sup> seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1–10, which constitute all the claims pending in this application. Claims 11–25 are canceled. *See* Claims Appendix.

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<sup>1</sup> Appellants inform the Board that an appeal was filed in US Application 13/724,104 (“the ’104 Application”), the parent application of the present invention. App. Br. 3. The present Panel affirmed the rejection of all claims in the ’104 Application. *See Ex parte Barlow*, 2015-007945 (PTAB Nov. 2, 2016).

<sup>2</sup> The Appeal Brief identifies International Business Machines Corporation, as the real party in interest. App. Br. 3.

We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.<sup>3</sup>

### STATEMENT OF THE CASE

The claims relate to systems and methods for the management of data items representing intended future conversations. *See* Abstract.

### INVENTION

Claims 1 and 10 are independent. An understanding of the invention can be derived from a reading of exemplary Claim 1, which is reproduced below:

1. A method of managing data items representing intended future conversations, comprising:

receiving a plurality of first inputs from a first user, each first input being related to a respective intended future conversation, each first input creating at least one data item representing the respective intended future conversation;

receiving at least one attribute for each of the plurality of intended future conversations associated with each first input, the at least one attribute indicating a relationship or importance to the first user of a participant invited to a corresponding intended future conversation;

responsive to receiving at least one attribute for each of the plurality of the intended future conversations associated with each first input, a conversation module executed by a

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<sup>3</sup> Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed July 29, 2015, “App. Br.”), the Reply Brief (filed December 21, 2015, “Reply Br.”), the Examiner’s Answer (mailed October 21, 2015, “Ans.”), the Final Action (mailed March 18, 2015, “Final Act.”), and the Specification (filed September 10, 2013, “Spec.”) for their respective details.

processor automatically ranking the plurality of intended future conversations associated with each first input in a particular order based on at least one of the received attributes indicating the relationship or importance to the first user of the participant invited to the corresponding intended future conversation; and  
generating a listing of the intended future conversations that is based on the ranking.

*References and Rejections*

Adams, <i>et al.</i> ,	US 8,429,292 B2	Filed Aug. 1, 2006
O’Sullivan, <i>et al.</i> ,	US 2009/0055236 A1	Feb. 26, 2009
Coulomb, <i>et al.</i> ,	US 2009/0217176 A1	Aug. 27, 2009

The claims stand rejected as follows:

1. Claims 1–10 stand provisionally rejected on the ground of nonstatutory double patenting over Claims 11–19 of co-pending Application No. 13/724104. Final Act 3–11.
2. Claims 1–3 and 6–10 stand rejected under pre-AIA 35 U.S.C. § 103(a) as obvious over Coulomb and O’Sullivan. Final Act 11–23.
3. Claims 4 and 5 stand rejected under pre-AIA 35 U.S.C. § 103(a) as obvious over Coulomb, O’Sullivan, and Adams. Final Act 23–25.

## ANALYSIS

We have reviewed the rejections of Claims 1–10 in light of Appellants’ arguments that the Examiner erred. We consider Appellants’ arguments *seriatim*, as they are presented in the Appeal Brief, pages 6–21.

### CLAIMS 1–10: PROVISIONAL NONSTATUTORY DOUBLE PATENTING REJECTION

Claims 1–10 stand provisionally rejected on the ground of nonstatutory double patenting over claims 11–19 of co-pending Application No. 13/724104. Final Act 3

Because Appellants advance no arguments on appeal traversing the Examiner’s provisional nonstatutory double patenting rejection (Final Act. 3), we *pro forma* sustain the Examiner’s rejection of claims 1–10 on the provisional ground of non-statutory obviousness-type double patenting. Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

### CLAIMS 1–3 AND 6–10: OBVIOUSNESS OVER COULOMB AND O’SULLIVAN

Appellants argue claims 1–3 and 6–10 as a group in view of the limitations of claim 1. *See* App. Br. 20–21.

*Attribute for each of the plurality of intended future conversations.*

The claims recite “receiving at least one attribute for each of the plurality of intended future conversations associated with each first input.” The Examiner finds Coulomb teaches that a “meeting invitation and a meeting are defined with a number of criteria.” Final Act. 12 (citing

Coulomb, ¶ 18). The Examiner finds Coulomb’s “criteria” teaches the claimed “attribute.” *Id.*

Appellants contend Coulomb’s “criteria” relate only to a particular meeting and meeting invitation, but do not relate to the claimed “each of the plurality of intended future conversations.” App. Br. 14.

The Examiner finds Appellants define “attribute” as “any property, characteristic, requirement or information associated with an intended future conversation that provides context for the conversation.” Ans. 3. (quoting Spec., ¶ 31). The Examiner finds Coulomb discloses each meeting is associated with a table which stores information, i.e., “attributes,” related to a forthcoming meeting (i.e., an “intended future conversation”). *Id.* at 4. The Examiner finds when a sender schedules a meeting, the table of attributes must be filled in. *Id.*

Appellants do not reply to this aspect of the Examiner’s Answer. *See* Reply Br. Thus, we are not persuaded the Examiner errs.

*A relationship or importance to a first user.*

The claims recite “at least one attribute indicating a relationship or importance to the first user of [an invited] participant.” Appellants contend the Examiner relies exclusively upon O’Sullivan to teach this limitation. App. Br. 15. Appellants argue O’Sullivan’s “weighting factor,” i.e., the likelihood that a given user will attend a meeting, is not an “attribute indicating a relationship or importance to the first user of a participant [invited to a future meeting],” as claimed. *Id.* at 16; *see* Reply Br. 4.

Appellants do not specifically define the claimed “attribute indicating a relationship or importance to the first user.” However, Appellants’

Specification discloses examples of such attributes. The Specification discloses “[a]nother attribute may be the importance, relevance and/or relationship (e.g., work, colleague, vendor, boss, subordinate, certain function units within an organization, etc.) of a participant to the originating user or to some other reference point.” Spec., ¶ 32. We find, for example, that where a substantial likelihood that one’s boss will be present at a future meeting is indicated, a person of skill in the art would recognize an attribute of the meeting indicating an importance, relevance, and relationship.

*Critical attendee.*

Appellants contend O’Sullivan fails to teach whether a given user is a “critical attendee.” Reply Br. 3. We note that “critical attendee” is not recited in the claims. Appellants’ argument is not commensurate in scope with the claims which do not recite “critical attendee.” *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (“[A]ppellant’s arguments fail from the outset because . . . they are not based on limitations appearing in the claims.”).

For the aforementioned reasons, and based upon a preponderance of the evidence, Appellants have not persuaded us the Examiner erred regarding representative claim 1. To the extent Appellants have not advanced separate, substantive arguments for particular claims and/or limitations, (or other issues), such arguments are considered waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). Accordingly, grouped claims 2, 3, and 6–10 fall with claim 1, under the Examiner’s second-stated rejection. (Final Act. 11–15). Regarding the Examiner’s third-stated rejection of claims 4 and 5 under § 103 (Final Act. 23–25), Appellants advance no separate arguments.

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Therefore, we sustain the Examiner's second and third-stated rejections of claims 1–10 under § 103.



DECISION

We affirm the Examiner's decision rejecting claims 1–10 on the provisional ground of nonstatutory obviousness-type double patenting.

We affirm the Examiner's decision rejectioning claims 1–10 under 35 U.S.C. § 103(a)

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED